REMARKS

I. Introduction

In view of the above amendments and the following remarks, reconsideration of the rejections contained in the Office Action of November 24, 2009 is respectfully requested.

By this amendment, claims 1, 4-7, 11, and 31 have been amended and claim 16 has been cancelled without prejudice or disclaimer to the subject matter contained therein. Claims 1-15, 17-19, 21-25, and 30-34 are now pending in the application. No new matter has been added by these amendments.

II. Allowable Subject Matter

On page 4 of the Office Action, claims 2, 8, 15, 19, and 21-25 are allowed, and claim 16 is indicated as containing allowable subject matter. Independent claim 11 has been amended to include the subject matter of claim 16, and is thus believed to be allowable; claims 12-14, 16-18, and 34 depend from claim 11 and are thus allowable at least by virtue of their dependencies.

III. Prior Art Rejections

Currently, claims 1, 9, 10, stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Riley et al. (US 5,348,061), claims 3-7 and 30-33 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Riley et al. in view of Hale (US 1,438,595), and claims 11-14, 17-18, 23 and 34 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Riley et al. in view of Hale in further view of Chudy et al. (US 6,170,230).

Claim 1 is patentable over Riley et al., Hale, and Chudy et al., whether taken alone or in combination, for the following reasons. Claim 1 requires a drug dispenser to be positioned

downstream of a drug feeder, the drug dispenser being adapted to receive solid drugs from the drug feeder, to temporarily accumulate the drugs, and to discharge the accumulated drugs, the drug dispenser comprising: a receptacle having an inner peripheral surface, an open top and a bottom adapted to be opened and closed, wherein said inner peripheral surface includes a first movable wall and a second movable wall, each of said first movable wall and said second movable wall being adapted to move when the bottom of said receptacle is opened, and wherein said first movable wall opposes said second movable wall, wherein said receptacle comprises an outer receptacle portion and an inner receptacle portion, said inner receptacle portion being rotatably disposed in said outer receptacle portion such that a cavity is formed in said receptacle for accumulating drugs therein, and wherein said inner receptacle portion includes said first movable wall, said second movable wall.

On page 3 of the Office Action, an interpretation of claim 1 is explained in which the limitation requiring the first and second movable walls is interpreted as "merely a method of manufacture for providing a single unit [and] as such does not have patentable weight with regards to the final structure."

As a preliminary matter, Applicants disagree with this interpretation. The limitation previously included in claim 1 recited "at least part of said inner peripheral surface is formed by a first movable wall and a second movable wall." This limitation does not recite a method of forming the inner peripheral surface. Instead, the limitation further defines the inner peripheral surface by defining two structures which form the inner peripheral surface. In other words, the limitation in question positively recites additional structure, and is not written as a method comprising steps such as "providing a first movable wall" and "providing a second movable

wall." Accordingly, the limitation at issue cannot properly be interpreted as a method of manufacture.

Moreover, process limitations must be given patentable weight even in an apparatus claim when the process (such as a method of manufacture) affects the structure which is present in the final product. See MPEP 2113. Accordingly, even if claim 1 did recite method steps of "providing a first movable wall, and providing a second movable wall," these steps must be considered in terms of what structure they impart on the final product. In other words, because these method steps necessarily results in a structure having first and second movable walls, they do properly limit the apparatus claim and must be given patentable weight.

While Applicants disagree with the prior art rejection as discussed above, claim 1 has been further amended in an effort to advance prosecution. In particular, the recitation of "formed by" has been deleted, and claim 1 now requires that the inner peripheral surface includes a first movable wall and a second movable wall. This limitation clearly defines a structural requirement of the drug dispenser of claim 1, and not a method of manufacture. Because neither Riley et al. nor Hale disclose an inner peripheral surface including a first movable wall and a second movable wall wherein the first movable wall opposes the second movable wall, neither of those references can meet the requirements of claim 1.

More particularly, claim 1 has been amended to include limitations similar to those previously recited in claim 31, which stands rejected as being obvious over Riley et al. in view of Hale. In rejecting claim 21, the Office Action asserts that it would have been obvious to substitute a barrel style accumulator as taught by Hale into the medicine dispenser of Riley et al. As seen in figures 3 and 5 of Hale and described in lines 90-92 of page 1 of Hale, the measuring cup (6) of the barrel style accumulator is "entirely open at one end and is closed at the opposite

end 9..." Thus Hale does not disclose a receptacle having a first movable wall opposing a second movable wall.

As discussed in the previous response, the accumulator configuration of the Hale reference may result in the dispensed content becoming stuck in gaps formed between the measuring cup (6) and the body (2), and may also result in undesirable wear on the apparatus. While these deficiencies may be of little consequence in dispensing carbide as taught in the Hale reference, they can cause serious problems in the field of dispensing medical drugs. For instance, drugs could become lodged in a gap and remain in the accumulator and thus not properly dispensed; if the drugs became dislodged in the future they could be dispensed to the wrong patient, which is a potentially lethal problem. The configuration required by claims 1 overcomes these problems, as explained in detail in the specification.

Further, it appears as though there would have been no reason to modify any of the prior art of record to yield a configuration which would meet the requirements of claim 1. It is thus submitted that the invention of the present application, as defined in claim 1, is not anticipated nor rendered obvious by the prior art, and yields significant advantages over the prior art. Allowance is respectfully requested.

Claims 3-7, 9-10, and 31-33 depend, directly or indirectly, from claim 1 and are thus allowable for at least the reasons set forth above in support of claim 1. All of the remaining claims contain subject matter which is indicated by the Examiner as being allowable, as discussed above.

In view of the foregoing amendments and remarks, inasmuch as all of the outstanding issues have been addressed, Applicants respectfully submit that the present application is now in condition for allowance, and action to such effect is earnestly solicited. Should any issues

remain after consideration of the response, however, the Examiner is invited to telephone the undersigned at the Examiner's convenience.

Respectfully submitted,

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